




## Part A: Generic

DCUSA Change Proposal (DCP)		At what stage is this document in the process?
<h1>DCP 345</h1> <h2>Sandbox Application</h2> <p><i>Date 14 March 2019</i></p> <p><i>Name Peter Waymont</i></p> <p><i>Company UK Power Networks</i></p> <p><i>Party Eastern Power Networks</i></p>		<div>01 – Change Proposal</div> <div>02 – Consultation</div> <div>03 – Change Report</div> <div>04 – Change Declaration</div>
<p><b>Purpose of Change Proposal:</b></p> <p>To facilitate the processing of sandbox applications<sup>1</sup>.</p>		
	<p>Governance: This change proposal is made following the introduction of a regulatory sandbox by the Authority to cater for innovation projects which fall under the jurisdiction of the DCUSA.</p> <p>The Proposer recommends that this Change Proposal should be:</p> <ul style="list-style-type: none"> <li>• Treated as a Part 1 Matter;</li> <li>• Treated as a Standard Change; and</li> <li>• Proceed to Working Group</li> </ul> <p>The Panel will consider the proposer's recommendation and determine the appropriate route.</p>	
	<p>Impacted Parties: All</p>	
	<p>Impacted Clauses: Clause 56 - Derogations</p>	

<sup>1</sup> An application received from an innovator who is looking to run a trial to test new products, services and business models but to do so needs to derogate some of the clauses within a licence or relevant code.

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Indicative Timeline		 email address DCUSA@electralink.co.uk
<b>The Secretariat recommends the following timetable:</b>		 telephone 02074323000
Initial Assessment Report	20 March 2019	<b>Proposer:</b> Peter Waymont
Consultation Issued to Industry Participants	TBD	 peter.waymont@ukpowernetworks.co.uk
Change Report Approved by Panel	19 June 2019	 N/A
Change Report issued for Voting	21 June 2019	
Party Voting Closes	12 July 2019	
Change Declaration Issued to Parties	16 July 2019	
Change Declaration Issued to Authority	16 July 2019	
Authority Decision	TBC	

## 1 Summary

## What

1.1 Ofgem introduced an initiative (Innovation Link) in 2016 to promote innovation through what is known as a regulatory sandbox<sup>2</sup>. This allows innovators to trial new products, services and business models in a real-world environment without having to comply with all the industry obligations.

1.2 So far, the regulatory sandbox has covered obligations controlled by Ofgem based on four eligibility criteria:

- Innovation;
- consumer benefit;
- background research; and
- the need for support.

If innovators are not licensed and are seeking derogations, then they will need to work with a licensed business for the duration of the sandbox.

1.3 Ofgem are not able to offer relief from the detailed codes which underpin the operation of the gas and electricity markets, and which industry maintain. In order to widen the scope of the sandbox, Ofgem have worked closely with Code administrators and developed Principle 14 - code administrators shall support prospective energy innovators, which now forms part of the Code Administrators Code of Practice (CaCoP)<sup>3</sup>.

## Why

1.4 The DCUSA derogation process is not currently flexible enough to cater for sandbox applications and may result in an application being rejected or accepted by the Panel without the Authority position being known after a set period of time has lapsed. This could cause un-necessary frustration and potentially costs to the innovator.

## How

1.5 The derogation clause 56 is proposed to be amended to cater for the processing of the sandbox application. The proposed process introduces send back powers to both the Panel and the Authority together with a positive accept or reject of the application by the Authority.

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<sup>2</sup> [What is a regulatory sandbox](#)

<sup>3</sup> [Code Administrators Code of Practice](#)

## 2 Governance

### Justification for Part 1 and Part 2 Matter

- 2.1 This Change Proposal should be classed as a Part 1 matter since it concerns the governance or the change control arrangements applying to this Agreement.

### Requested Next Steps

- 2.2 This Change Proposal should proceed to a Working Group.

## 3 Why Change?

- 3.1 Ofgem have introduced a regulatory sandbox to promote innovation within the energy industry. It however cannot fully process those initiatives that impact industry codes. In order to progress further and support innovators, Ofgem have introduced principle 14 within CaCoP. The principle description being:

“Code Administrators shall support prospective energy innovators (“applicants”) by providing guidance on their codes to any applicant including those not acceded to said code(s). Ofgem will act as the co-ordinating and externally-facing body and will be responsible for receiving and assessing information from applicants. For applicants seeking to trial an innovative product or service, Code Administrators will assess the appropriateness of the proposed temporary derogation and provide advice to the **Code Panel who will provide a recommendation to Ofgem**”

- 3.2 In addition principle 14 also provides guidance where it makes it clear that it is the Authority who will grant the derogation:

“Enable applicants to trial innovations, where applicable, **through time limited derogations granted by the Gas and Electricity Markets Authority**”.

- 3.3 The current derogation process allows a derogation to any obligation but this is usually related to newly introduced or amended obligations introduced by the change control process or new entrants:

“The Panel may (subject to Clause 56.3) resolve, on the application of any Party, **to grant a derogation to any Party or Parties in relation to any obligation or obligations contained in this Agreement**. In resolving to grant such derogation, the Panel may impose such conditions as it sees fit, and shall specify the term, scope and application of such derogation. **Derogations will normally only be granted in respect of newly introduced or amended obligations (or obligations due to be implemented in the future).**”

- 3.4 The current process also allows for a non-veto by the Authority:

“**A derogation granted to any Party by the Panel**, or any retraction, amendment or addition under Clause 56.2, **shall, in each case, only be effective if made in conformity with any representations received from the Authority in accordance with Clause 56.5.3 and if not vetoed by the Authority within 10 Working Days of notification of the Panel's decision and the rationale for it.**”

If the Authority do not reply within the 10 Working Days it is classed as a non-veto and the Panel recommendation is deemed to be approved.

- 3.5 There is a risk that if there is no change to this process and the Authority response to the sandbox application is received sometime later than the 10 Working Days after the Panel has approved the derogation, and the innovator has potentially started their project, that this may result in costs to the innovator should the Authority reject the derogation request. Conversely should the Authority overrule the Panel, the innovator may have been given a rejection notice, which is then followed up with an acceptance, thereby creating further uncertainty and frustration with the process.
- 3.6 In addition, DCUSA is currently silent on whether any rejected requests made by the Panel are subject to a decision by the Authority.

## Part B: Code Specific Details

### 4 Solution and Legal Text

- 4.1 The solution is to amend Clause 56 by ensuring that the process is not completed until the Authority has formally responded to the request for sandbox applications.
- 4.2 In addition the process should be enhanced to cater for:
- Panel and Authority send back powers similar to that in the change process;
  - An initial sandbox report to include what the initiative is and what clauses are to be derogated against;
  - Parties to have the ability to comment on the sandbox application;
  - A sandbox report post Party representation; and
  - A final report to the Authority that contains all of the above together with any conditions placed on the derogation by the Panel (similar to the current process).
- 4.3 The legal text is contained within attachment 1.

### 5 Code Specific Matters

#### Reference Documents

- 5.1 The Balancing & Settlement Code has already introduced a sandbox process via BSC Modification P362<sup>4</sup>.

### 6 Relevant Objectives

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<sup>4</sup> [BSC Modification P362](#)

DCUSA Charging Objectives	Identified impact
Please tick the relevant boxes. <a href="#">[See Guidance Note 10]</a>	
<input type="checkbox"/> 1 that compliance by each DNO Party with the Charging Methodologies facilitates the discharge by the DNO Party of the obligations imposed on it under the Act and by its Distribution Licence	None
<input type="checkbox"/> 2 that compliance by each DNO Party with the Charging Methodologies facilitates competition in the generation and supply of electricity and will not restrict, distort, or prevent competition in the transmission or distribution of electricity or in participation in the operation of an Interconnector (as defined in the Distribution Licences)	None
<input type="checkbox"/> 3 that compliance by each DNO Party with the Charging Methodologies results in charges which, so far as is reasonably practicable after taking account of implementation costs, reflect the costs incurred, or reasonably expected to be incurred, by the DNO Party in its Distribution Business	
<input type="checkbox"/> 4 that, so far as is consistent with Clauses 3.2.1 to 3.2.3, the Charging Methodologies, so far as is reasonably practicable, properly take account of developments in each DNO Party's Distribution Business	None
<input type="checkbox"/> 5 that compliance by each DNO Party with the Charging Methodologies facilitates compliance with the Regulation on Cross-Border Exchange in Electricity and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.	None
<input type="checkbox"/> 6 that compliance with the Charging Methodologies promotes efficiency in its own implementation and administration.	None
There is no impact on the charging objectives	
DCUSA General Objectives	Identified impact
Please tick the relevant boxes. <a href="#">(See Guidance Note 9)</a>	
<input type="checkbox"/> 1 The development, maintenance and operation by the DNO Parties and IDNO Parties of efficient, co-ordinated, and economical Distribution Networks	None
<input type="checkbox"/> 2 The facilitation of effective competition in the generation and supply of electricity and (so far as is consistent therewith) the promotion of such competition in the sale, distribution and purchase of electricity	None
<input type="checkbox"/> 3 The efficient discharge by the DNO Parties and IDNO Parties of obligations imposed upon them in their Distribution Licences	None
<input checked="" type="checkbox"/> 4 The promotion of efficiency in the implementation and administration of the DCUSA	Positive

<input type="checkbox"/> 5 Compliance with the Regulation on Cross-Border Exchange in Electricity and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.	None
<p>This change will provide a more robust and transparent process for handling sandbox applications received from innovators via Ofgem and ensure a positive decision is received from the Authority.</p>	

## 7 Impacts & Other Considerations

- 7.1 There are no cross code concerns with this change proposal other than the obligation under CaCoP to liaise with code administrators should the sandbox application cut across industry codes.

### Does this Change Proposal impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

- 7.2 There is no impact on any of the current SCRs or any other industry change projects.

### Does this Change Proposal Impact Other Codes?

Please tick the relevant boxes and provide any supporting information. [\[See Guidance Note 6\]](#)

- |           |                                     |
|-----------|-------------------------------------|
| BSC       | <input type="checkbox"/>            |
| CUSC      | <input type="checkbox"/>            |
| Grid Code | <input type="checkbox"/>            |
| MRA       | <input type="checkbox"/>            |
| SEC       | <input type="checkbox"/>            |
| Other     | <input type="checkbox"/>            |
| None      | <input checked="" type="checkbox"/> |

### Consideration of Wider Industry Impacts

- 7.3 There is already one innovator in discussion with the Secretariat, and that innovator gave a presentation at the DCUSA Panel closed session meeting in January.

### Confidentiality

7.4 There are no confidentiality concerns.

## 8 Implementation

8.1 The proposed implementation date is the first release after the Authority approval.

## 9 Recommendations

- Attachment 1 – DCP 345 Legal text